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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,467	01/19/2006	Bernhard Lucas	10191/4561	8097
26646 7590 05/22/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER SCHWARTZ, CHRISTOPHER P				
ART UNIT		PAPER NUMBER		
3657				
MAIL DATE		DELIVERY MODE		
05/22/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,467

Applicant(s)

LUCAS ET AL.

Examiner

Christopher P. Schwartz

Art Unit

3657

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16, 18-20 and 22-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-30 is/are allowed.
- 6) ☒ Claim(s) 15, 16, 18-20, 22-26 and 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed February 23, 2009 has been received and considered. Claims 1-14,17,21 have been canceled. Claims 15,16,18-20,22-37 are currently pending.

Information Disclosure Statement

2. The information disclosure statement has been received and considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19,20,22,23 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogier '427.

Regarding claims 19 and 23 the arrester are the bolts at 28A,B. The 'pressure build up' could be the pressure applied against the rotor or the increased pressure applied to the pistons 12.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 15,16,18-20,22,23,31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaida et al. '745 in view of Rogier '427..

Regarding claim 18 Kaida is relied upon as previously explained. See figure 3.

Lacking in Kaida is a showing of an arrester that is destroyed by an explosion such that the brake fluid reservoir at 1,2 and 23 causes a pressure build up in the chamber 36a due to the destruction of the arrester.

The reference to Rogier is relied upon to show a structurally similar application in which when the bolt holding an explosive charge is destroyed the Bellville springs 22A,22B applied the preloaded pistons.

One having ordinary skill in the art would have found it obvious to have modified the piston assembly 23 accordingly as such a modification would simply amount to an obvious alternative equivalent arrangement to that shown by Kaida et al. in that either arrangement would cause a rapid movement of the piston 23 to the right.

Regarding claim 23 note the same modification could be used in the brake caliper at 34 in Kaida et al. since the reference to Rogier is structurally similar in this regard.

8. Claims 24-26,35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaida in view of Rogier as applied to claim 19 above, and further in view of Rao et al. or Bloomfield et al..

Regarding claims 24-26 Kaida et al. lacks a showing of adapting the device to a vehicle having equipped with an antilock brake system (inherently provided with valves to control the fluid to the wheel cylinders) and a collision avoidance system.

Both of the brake systems to Rao et al. or Bloomfield et al. teach such a system equipped with sensors and/or cameras.

One having ordinary skill in the art at the time of the invention would have found it obvious to have used the emergency braking device of Kaida et al. with the collision avoidance systems of either Rao or Bloomfield to provide an additional measure of safety in extraordinary circumstances.

Allowable Subject Matter

9. Claims 27-30 are allowed.

Response to Arguments

10. Applicant's arguments with respect to claims 15,16,18-20,22-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 10:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rob Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P. Schwartz/
Primary Examiner, Art Unit 3657

5/20/09